

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

Order

CR-04-0489 (JMA)

YOCHANAN COHEN,

Defendant.

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A P P E A R A N C E S:

Roslynn R. Mauskopf
United States Attorney
Eastern District of New York
One Pierrepont Plaza
Brooklyn, NY 11201

By: Shannon C. Jones
Assistant United States Attorney

Alan S. Lewis, Esq.
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One Chase Manhattan Plaza, 35th Floor
New York, NY 10005-1417
Attorney for Defendant

AZRACK, United States Magistrate Judge:

Defendant moved to suppress statements made to law enforcement officers before and after his arrest in the above matter on the ground that the statements were obtained by unlawful custodial interrogation in violation of defendant's Miranda rights. In an order dated June 6, 2005, I granted the motion to suppress statements made during unwarned custodial interrogation, but denied the motion to suppress all other statements. Defendant asks me to reconsider my decision. He argues that my finding that defendant was not given an additional warning that unwarned statements were likely inadmissible,

and that this factor weighed in defendant's favor in a consideration of whether he could have understood his rights, is irreconcilable with my overall conclusion that defendant's rights were not violated by the post-warning questioning. Defendant's argument misstates the result of my analysis, which was that, considering all the factors enunciated in the plurality and concurring opinions in Missouri v. Seibert, ___ U.S. ___, 124 S. Ct. 2601, 159 L. Ed. 2d 643 (June 28, 2004)—none of which are dispositive, least of all the absence of an addendum warning explicitly not made a requirement in that case—Miranda warnings were effective in conveying to defendant his rights. Defendant's motion for reconsideration is denied.

SO ORDERED.

Dated: Brooklyn, New York
June 16, 2005

_____/s/_____
JOAN M. AZRACK
UNITED STATES MAGISTRATE JUDGE